

REMARKS

Reconsideration and allowance are respectfully requested.

Claims 24 and 27-36 are now pending, with Claim 24 being the sole independent claim.

Claim 24 has been amended. Support for this amendment can be found in the specification at least at page 8, lines 10-11 and Claim 1 as originally filed. No new matter is believed to have been added.

Claims 1-23, 25 and 26 have been canceled without prejudice to or disclaimer of the subject matter recited therein.

Turning now to the Office Action mailed February 24, 2005:

Claim 24-25 were rejected under 35 USC §102(b) as allegedly being anticipated by Kim C. *et al.* (GenBank Accession AAC35866 also GI: 3603473; March 1, 1998) ("Kim").

Claim 24 now recites, inter alia, a nucleotide sequence encoding a viral movement polypeptide, wherein the polypeptide has an amino acid sequence of at least 95% sequence identity, based on the Clustal method of alignment with multiple alignment default parameters of GAP PENALTY=10 and GAP LENGTH PENALTY=10, and pairwise alignment default parameters of KTUPLE=1, GAP PENALTY=3, WINDOW=5 and DIAGONALS SAVED=5, when compared to SEQ ID NO:6.

Claim 25 has been canceled, thus rendering moot this rejection as applied to Claim 25.

In view of the foregoing, withdrawal of the 35 USC §102(b) rejection is respectfully requested.

Claims 24-26 and 29-34 were rejected under 35 USC §103(a) as allegedly unpatentable over Kim in view of Xoconostle-Cazares B. *et al.* Science, January 1, 1999; Vol. 23 pp. 94-98 ("Xoconostle-Cazares") and further in view of Almon E. *et al.* Plant Physiology, 1997; Vol. 115, pp. 1599-1607 ("Almon").

Applicants respectfully traverse this rejection as applied to Claims 24 and 29-34 (this rejection has been rendered moot as applied to canceled Claims 25-26).

Applicants submit that Kim, Xoconostle-Cazares, or Almon, whether taken alone or in any combination, does not disclose or suggest a nucleotide sequence encoding a viral movement polypeptide, wherein the polypeptide has an amino acid sequence of at least 95% sequence identity, based on the Clustal method of alignment, when compared to SEQ ID NO:6, as now recited, inter alia, in Claim 24 (and dependent Claims 29-34).

Kim at best discloses and suggests an amino acid sequence of 90% sequence identity, based on the Clustal method of alignment, when compared to SEQ ID NO:6 of the pending claims.

Even assuming arguendo that Xoconostle-Cazares teaches using RT-PCR and southern hybridization and comparing sequences to known plant movement proteins to isolate and identify putative plant homologs of viral movement proteins, nothing in Xoconostle-Cazares discloses or provides a specific motivation for applying these or any of its teachings in combination with the sequence of Kim, let alone in combination with any other viral movement protein sequence, to arrive at a sequence having at least 95% sequence identity, based on the Clustal method of alignment, when compared to SEQ ID NO:6. Nor does any teaching in Almon, whether taken alone, or in any combination with Kim and Xoconostle-Cazares, provide any such specific motivation. At best, each of these three references, or any combination thereof, might disclose a general approach for identifying potential homologs of viral movement proteins, but even assuming this to be the case, this still would not amount to any specific suggestion to arrive at a viral movement polypeptide having an amino acid sequence of at least 95% sequence identity, based on the Clustal method of alignment, when compared to SEQ ID NO:6.

Thus, in view of the foregoing, withdrawal of the rejection of Claims 24-26 and 29-34 under 35 USC §103(a) is respectfully requested.

Applicants believe the foregoing to be responsive to each of the points raised in the Office Action. It is respectfully submitted that the claims are now in form for allowance which allowance is respectfully requested.

Applicants note that the Office Action does not address pending Claims 35-36. Applicants submit that Claims 35-36 are allowable over the art of record.

Please charge any fees or credit any overpayment of fees, which are required in connection with the filing of this Response, to Deposit Account No. 18-2284 (DLA Piper Rudnick Gray Cary US LLP).

Respectfully submitted,



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